

REMARKS

Claims 72-107 were pending. Claim 96 has been canceled, and claims 81-82 and 94-107 are withdrawn pending allowance of a generic claim.

5 Claims 72-73 and 76-79 stand rejected under the judicially-created doctrine of obviousness-type double patenting in view of many claims in U.S. Patent No. 6,893,460. Accordingly, Applicants submit concurrently herewith a Terminal Disclaimer to overcome this rejection.

10 Claims 72-80 and 83-93 stand rejected under 35 U.S.C. §112, first paragraph. In response, the term "substantially" has been canceled from claims 72 and 83. In claims 74 and 86, the term "substantially" has been removed. However, as seen in Fig. 9a, the bores do not extend the full length of the support beams but only substantially the length. In claims 76 and 89 "bioprosthetic" material has been changed to "biocompatible" material, which can be found throughout the specification, including paragraph [0017] of US 20040039436. With regard to claims 80 and 93, and the recitation of the valve assembly being anchored to both the support
15 beams and web, support can be found in the "mounting geometry 357" in Fig. 20b, and in Fig. 23e with suturing 379. Finally, claim 84 only recites what is shown in Fig. 1, where the support beams terminate at the outlet end of the support stent. Applicants believe that all of the various 112 issues have been resolved, but invite the Examiner to contact the undersigned by telephone if necessary to reach agreement.

20 Claim 72 stands rejected under 35 U.S.C. §112, second paragraph. Accordingly, the antecedent problem with "slack portions" is believed addressed as shown by amendment above.

25 Claims 72-73, 75-76, 80, 83-85, 87-89 and 93 stand rejected under 35 U.S.C. §102(e) as being anticipated by Schreck, U.S. Patent No. 6,454,799. Claim 72 provides an annular support stent having a substantially circular profile in an expanded configuration and a plurality of longitudinally rigid support beams of fixed length. As explained previously, the longitudinally

rigid commissure posts 42 in Schreck are not part of a support stent having a circular profile. Indeed, a preferred construction of the support stent 24 of Schreck uses a single piece of flat material which is first rolled into a tubular shape after which the commissure posts 42 are bent outward to project in the opposite direction from their original direction (see column 7, lines 18-32). As a result, a narrow space 62 exists between the commissure posts 42 and the exterior of the tubular support stent 24. See Fig. 3 where a lower portion of a flexible tubular member 20 extends into these spaces. To further define this distinction, claim 72 now recites that the support stent includes a plurality of longitudinally rigid support beams of fixed length and an expandable web-like construction extending between and connecting the support beams. In contrast, Fig. 2 of Schreck clearly shows the commissure posts 42 spaced from the tubular base 40. There is no teaching in Schreck of an expandable web-like construction extending between and connecting the posts 42. There is also no teaching in Schreck of a support stent having a circular profile. Accordingly, Applicants respectfully submit that claims 72 and its dependents are allowable over Schreck.

As amended, independent claim 83 now recites a support stent being tubular in its deployed state and including collapsible and expandable portions extending between and directly connecting a plurality of longitudinally rigid support beams of fixed length distributed around a circumference thereof and extending co-extensively with the support stent. In contrast to Applicants' claimed invention, Schreck does not disclose a support stent having collapsible and expandable portions which extend between rigid support beams and connect the support beams together. In addition, Applicants note that the commissure posts 42 of Schreck project substantially farther on an outflow end of a tubular base 40 of the support stent. This feature is provided by Schreck such that individual leaflets can be formed by attaching commissures of the flexible tubular member 20 to the commissure posts 42 above the outflow end of the tubular base 40. There is no discussion of altering the base such that it includes expandable portions which extend between and directly connect the posts. Nor is there any discussion about altering the

commissure posts 42 so they stand substantially co-extensively with the tubular base. Accordingly, Applicants assert that claim 83 and its dependents are allowable over Schreck.

Claim 96 has been canceled and its dependents amended to depend from claim 82. This group of claims is now withdrawn.

5 Claims 77 and 90 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schreck in view of Bessler, et al., USPN 5,855,601. Applicants contend that new claims 77, 90 and 102 specifying the material of the support stent are allowable because they depend from allowable base claims.

10 Claims 78-79 and 91-92 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schreck in view of Rosen, USPN 4,345,340. Applicants contend that new claims 78-79, 91-92, and 103-104 providing radiopaque markers on the support stent are allowable because they depend from allowable base claims.

CONCLUSION

5 In view of the above amendments and remarks, Applicants respectfully submit that new claims 72-95 and 97-107 are allowable in their present form. Should the Examiner have any remaining questions, the Examiner is encouraged to contact the attorney of record at the telephone number shown below.

Petition for Extension of Time to Respond

This amendment is submitted within 3 months of the date of the Office Action and therefore no extension of time is required.

Fees Due to File This Amendment

The aforementioned claim amendments have not resulted in more than the previous number of claims, and **thus no claim fees are believed to be due** to file this amendment.

15 Respectfully submitted,

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/ David L. Hauser, Reg. No. 42,643/

20 David L. Hauser
Registration No. 42,643
Edwards Lifesciences LLC
Law Department
One Edwards Way
25 Irvine, California 92614
Telephone: (949) 250-6878
Facsimile: (949) 250-6850
Customer No. 30452